



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
14 JANUARY 2019**

Application Number	FUL/MAL/18/01297
Location	Market Site, High Street, Burnham-on-Crouch
Proposal	Change the use of a section of the Burnham-On-Crouch High Street to a weekly retail market on Tuesdays.
Applicant	Mr Richard Holmes –Maldon District Council
Agent	N/A
Target Decision Date	31/01/2019
Case Officer	Devan Lawson
Parish	BURNHAM SOUTH
Reason for Referral to the Committee / Council	Council application

1. RECOMMENDATION

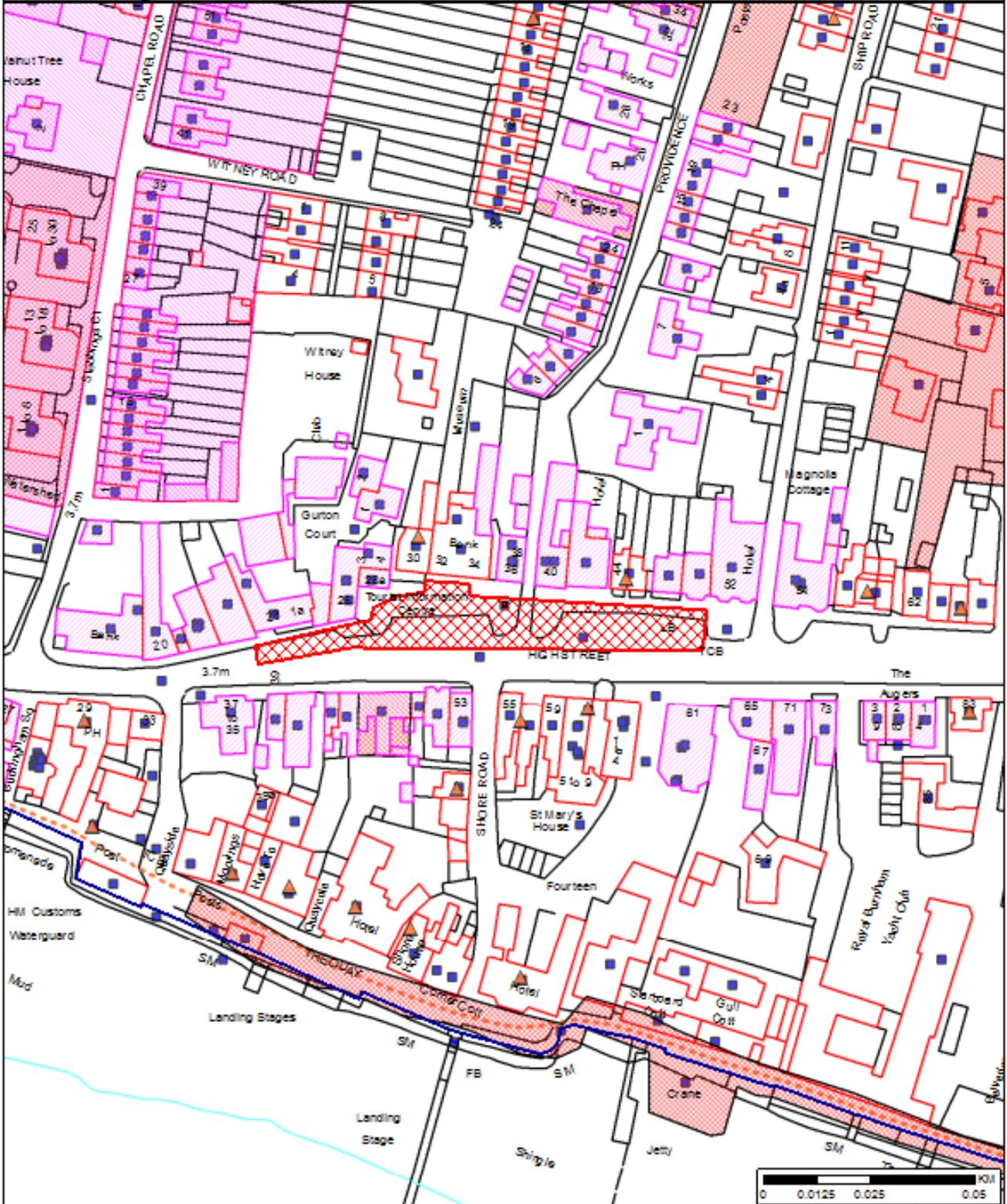
APPROVE subject to the conditions (as detailed in Section 8 of this report).

2. SITE MAP

Please see overleaf.

18/01297/FUL

Market Site High Street Burnham-on-Crouch



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Maldon District Council 100018588 2014



MALDON DISTRICT COUNCIL
www.maldon.gov.uk

Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Department
Comments:	SEAC
Date:	19/12/2018
MSA Number:	100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 The application site forms part of the Burnham-on-Crouch High Street located on the highway, between Barclays Bank and the hotel building at the junction of Ship Road with High Street. The site is located within the settlement boundary and Conservation Area of Burnham-on-Crouch, with a number of listed buildings in the immediate locality of the site.

3.1.2 Planning permission is sought for the change of use of part of the High Street to a weekly retail market on Tuesdays. The proposed operational hours including set up and take down are 07:00 until 16:00. The provided plans illustrate that there will be approximately 16 stalls within an area measuring approximately 0.094 hectares.

3.1.3 Unlike previous applications, permission is sought on a permanent basis and not on a temporary basis.

3.1.4 Background Information

3.1.4.1 It is noted that there is a temporary permission currently in place at the site for a retail market, every Tuesday from 07:00 until 15:30, including set up and take down, up until 31 August 2019 (FUL/MAL/17/00649).

3.1.4.2 Planning practice guidance states that temporary planning permissions are appropriate where a trial run is needed in order to assess the effect of the development on the area of where it is expected that planning circumstances will change in a particular way at the end of that period.

3.1.4.3 Under the terms of application FUL/MAL/15/00698 temporary permission was granted to enable an assessment of the markets impact on the locality which would then allow the Council to determine the acceptability of a permanent market based on the history of the site. Some concerns have been raised in the past in relation to the hours of operation, noise impacts and breaches of previous planning permissions. As a result temporary permission was also granted under terms of FUL/MAL/17/00649 which allowed for a further two year period for monitoring and assessing the impacts of the change of use. Given the time passed since the granting of the original temporary permission and that there is now a sufficient understanding of the implications of the proposal at this site, it is now considered appropriate to assess the permanent acceptability of the scheme.

3.1.4.4 The provided block plan demonstrates than an area to the west of the site, located to the south of Nos. 20A, 22 and 24 High Street, has not been included within the application area and will not include any stalls. This appears to be in response to the previous application where a condition was included preventing the siting of stalls in this locality due to concerns raised by the Local Highway Authority who considered that stalls in this location would be to the detriment of highway safety.

3.2 Conclusion

- 3.2.1 The proposed permanent change of use of part of the Burnham-on-Crouch High Street to a weekly market on Tuesdays is considered to be acceptable as it would support the local economy and assist in meeting the sustainability objectives of the District. It is also not considered that the change of use on a permanent basis would result in material harm to the character and appearance of the Conservation Area. Furthermore, on balance, it is not considered that subject to conditions the change of use would result in undue harm to the amenity of neighbouring occupiers. Having regard to this it is considered that the proposal is compliant with policies S1, D1, D3, D5, E2, T1 and T2 of the Local Development Plan (LDP), Policies CS.1b and EC.3 of the Burnham-on-Crouch Neighbourhood Development Plan and guidance contained with the National Planning Policy Framework and Maldon District Design Guide.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2018 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 85-90 Ensuring the Vitality of Town Centres
- 102-111 Promoting sustainable transport
- 117-118 Making effective use of land
- 124-132 Achieving well-designed places

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- S1 Sustainable Development
- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- E2 Retail Provision
- T1 Sustainable Transport
- T2 Accessibility

4.3 Relevant Planning Guidance / Documents:

- Car Parking Standards
- Maldon District Design Guide (MDDG)
- National Planning Policy Guidance (NPPG)
- Burnham-on-Crouch Neighbourhood Development Plan (BOCNDP)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 The application site lies within the Town Centre of Burnham-on-Crouch as defined within policy E2 of the approved Maldon District Local Development Plan (LDP). The market helps to strengthen and maintain the role of the Burnham-on-Crouch Town Centre by improving the range of retailing which helps to promote the vitality and viability of the town centre environment. The application is therefore considered acceptable in principle.
- 5.1.2 It should also be noted that Policy CS.1b Community Assets and Services of the BOCNDP states that the market will be safeguarded for community use. Therefore, the neighbourhood plan supports the principle of retaining the market on a permanent basis.

5.2 Design and Impact on the Character of the Area

- 5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.
- 5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

- 5.2.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:
- 5.2.3.1 Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- a) Height, size, scale, form, massing and proportion;
 - b) Landscape setting, townscape setting and skylines;
 - c) Layout, orientation, and density;
 - d) Historic environment particularly in relation to designated and non-designated heritage assets;

- e) Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and
- f) Energy and resource efficiency.

5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017).

5.2.5 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

5.2.6 Policy EC.3 of the BOCNDP states that '*within the primary retail area proposals for the expansion of existing retail uses will be supported where they preserve or enhance the character or appearance of the Burnham Conservation Area*'.

5.2.7 Burnham-on-Crouch is a historic market town. There is therefore no objection to the continuation of the use of the site as a market as it is considered to reflect the historic nature of the site and its relationship to the surroundings. Furthermore, the proposed change of use is considered to promote the overall vitality of the town centre environment which in turn contributes to the character of the Burnham-on-Crouch Conservation Area. Therefore, the proposal may promote further visitors to the historic town and may help to raise awareness of the important of heritage protection.

5.2.8 The market will not include any fixed structures and so it is not considered that the proposal would result in any harm to the character and appearance of the conservation area which is not immediately reversible. Furthermore, no objections have been raised by the Conservation Officer in relation to this application. The proposal is therefore considered to comply with the above policies and be acceptable in terms of its appearance and impact.

5.3 Impact on Residential Amenity

5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017).

5.3.2 The change of use would result in a weekly intensification of the use of the site, and an increase in noise disturbance to the neighbouring residential amenity. A letter of objection has been received objecting to the start time of 06:30am due to the noise impacts that currently result from the existing market and the objector notes that the current start time of 07:00am is ignored by some operators. The Environmental Health department and the Town Council have also raised an objection to the start time of 06:30 hours for the same reason. The applicant has been advised of these concerns and has revised the start times including set up to be 07:00 hours. Following further consultation with the Environmental Health Department they consider that keeping the start time at 07:00 hours is a reasonable compromise between the needs of the market traders and the amenity of the residents on the High Street. Likewise, the comments received from the Town Council note that they would consider a start time of 07:00 hours to be acceptable. This can be imposed via a condition to prevent operators setting up prior to 07:00.

- 5.3.3 It is noted that the proposed end time including clear up is 16:00 opposed to the previous clear up by 15:30. It is considered that the condition should ensure that trading ceases at 15:00 consistent with the extant permission. However, it is not considered that the increased clear up time until 16:00 will have any detrimental impact on neighbouring amenity.
- 5.3.4 Having regard to the above it is considered that given the number of days in the year that the market would be run and that conditions can be imposed restricting amplified sound and the hours of the market, on balance it is not considered that the continuation of the market on a permanent basis would result in demonstrable harm to the occupiers of adjacent buildings.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The Council's adopted Vehicle Parking Standards Supplementary Planning Document (SPD) contains the parking standards which are expressed as minimum standards. This takes into account Government guidance which recognises that car usage will not be reduced by arbitrarily restricting off street parking spaces. Therefore, whilst the Council maintains an emphasis of promoting sustainable modes of transport and widening the choice, it is recognised that the Maldon District is predominantly rural in nature and there is a higher than average car ownership. Therefore, the minimum parking standards seek to reduce the negative impact unplanned on-street parking can have on the townscape and safety, and take into account the availability of public transport and residents' reliance on the car for accessing, employment, everyday services and leisure. The key objectives of the standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
- 5.4.3 It is acknowledged that the market does result in the loss of 27 car parking space bays on market days that affront 28 - 36 High Street and 40 - 52 High Street. However, this has to be considered in the wider context of the overall number of car parking spaces available within the town centre and the economic benefits to the town and District as a whole, of there being a market within the town centre on a regular weekly basis.
- 5.4.4 In addition the central and accessible location of the market would mean that people living in the locality would be able to walk to the facility. There are also regular bus services through the area.

- 5.4.5 Although the Local Highway Authority has not yet commented on this application, it is noted that they raised no objection to the previous application (FUL/MAL/17/00649), subject to the removal of the two stalls located to the west of the site in front of 22 and 24 High Street, due to the pitch point on the highway which would have a detrimental impact on the free flow of traffic and highway safety. This area of the site has been omitted from this application and so it is not considered that there would be any new material considerations which would alter the Local Highway Authorities views on this matter.
- 5.4.6 Having regard to the above it is considered that the proposed continuation of the market use would not result in any detrimental impact on the parking provision or the highway users, subject to the relevant conditions.

5.5 Flooding

- 5.5.1 The site lies within Flood Zone 3 as defined by the Environment Agency. Policy D5 of the LDP seeks to avoid inappropriate development in areas at risk of flooding. The policy states that necessary development proposals within a flood risk area will need to demonstrate that flood risk will not be increased elsewhere and that the development will be safe for its future users.
- 5.5.2 Given that the change of use will not involve the construction of any permanent structures; it is not considered that there will be any increase in flood risk. Furthermore, the structures associated with the use are temporary in nature and so if flooding occurred at the site it would be possible to move or cancel the market if required.

5.6 Sustainability

- 5.6.1 Within the NPPF there is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's changes to the planning system and emphasises the need to plan positively for appropriate new development.
- 5.6.2 There are three dimensions to sustainable development; an economic, social and environmental role which are carried through to local policies via policy S1 of the LDP.
- 5.6.3 In economic terms, the proposed market would provide support for the local economy and the economy of the District providing a local service that is also capable of meeting additional needs of the community. The market may employ local businesses / stalls and provide further jobs and capital into the economy.
- 5.6.4 In social terms the proposal could assist in supporting a strong vibrant and healthy community by offering a local service to help meet the diverse needs of the community. The location of the market would also help to provide an accessible service to the community contributing to the sustainability and accessibility of this area.
- 5.6.5 In environmental terms, the central location of the site, availability of public transport services and potential for local residents or visitors to walk to the market would

reduce the need for access via private cars and therefore support the environmental role of sustainability by helping and encouraging the reduction in pollution in the fight against climate change.

5.6.6 On this basis, the proposal is considered to represent a form of sustainable development.

6. ANY RELEVANT SITE HISTORY

- **FUL/MAL/15/00698** – Change of use of part of the Burnham-on-Crouch High Street, to a weekly retail market. Every Tuesday until 31 August 2017. Operational times 07:30 - 15:00 – Approved.
- **FUL/MAL/17/00649** - Change of use of part of the Burnham-on-Crouch High Street to a weekly retail market. Every Tuesday until 31 August 2019. Operational times 07.00-15.00. – Approved.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Burnham-on-Crouch Town Council	Object – 06:30am start is not supported but 07:00am is due to increased noise, and disrupted vehicle access for residents and deliveries to nearby shop.	Noted and addressed at section 5.3

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Local Highway Authority	No comments received at the time of writing this report.	Noted. Any response received will be reported by way of Members' Update.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Conservation Officer	No objection – there will be no harm to the character and appearance of the Burnham-on-Crouch Conservation Area.	Noted and addressed at section 5.2

Name of Internal Consultee	Comment	Officer Response
Environmental Health	<p>There have been no recent complaints to the service but there have been objections regarding the starting time for set up for the current permission.</p> <p>In the past there have been complaints regarding amplified music. A condition was suggested previously but not included.</p> <p>There have been complaints about deliveries to One Stop shop being earlier on a Tuesday to avoid clashing with the setting up of the market.</p> <p>The proposed earlier start and making the permission permanent would appear to be at variance with the current approval.</p> <p>Keeping the start time at 07:00 hours, is a reasonable compromise between the needs of the market traders and the amenity of the residents on the High Street.</p>	<p>These comments are largely address under section 5.3. However, it should be noted that condition 3 of FUL/MAL/17/00649 does specify that no amplified sound can be used within the market by any stall, stall owner or operator at any time.</p>

7.4 Representations received from Interested Parties

7.4.1 **One** letter was received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Object to 06:30am start time due to noises disturbance during the process.	These matters are addressed under section 5.3
The current start time is 7am which is sometimes ignored.	

8. PROPOSED CONDITIONS

- 1 The development shall be carried out in accordance with the following approved plans and documents: ATS/552/01/A, ATS/552./02/B.
REASON To ensure that the development is carried out in accordance with the details as approved in accordance with policy D1 of the Approved Maldon District Local Development Plan and guidance contained within the National Planning Policy Framework.
- 2 The Burnham-on-Crouch retail market hereby permitted shall operate only between the hours 07:30 to 15:00 on Tuesdays only with no setting up of any stall prior to 07:00. All stalls and related equipment shall be removed from the site prior to 16:00 hours on each day.
REASON To ensure the use is appropriate to the locality and to protect the amenity of neighbouring occupiers in accordance with policy D1 of the Approved Maldon District Local Development Plan.
- 3 There shall be no amplified sound used within the market as outlined in red on the location plan which forms part of this permission or by any stall, stall owner or operator at any time.
REASON To ensure the use is appropriate to the locality and to protect the amenity of neighbouring occupiers in accordance with policy D1 of the Approved Maldon District Local Development Plan.